

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USDC Docket Number : 05CR40035

United States of America

v.

Richard Botchway

CLERK'S CERTIFICATE

I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents numbered:

1-40

and contained in Volume(s) 1 are the original or electronically filed pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 7/6/06.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on 7/7/06 .

Sarah A Thornton, Clerk of Court

By:

Sherry Jones

Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: _____.

Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

**RETURN TO: US DISTRICT COURT
595 MAIN STREET, SUITE 502
WORCESTER, MA 01608**

APPEAL

**United States District Court
District of Massachusetts (Worcester)
CRIMINAL DOCKET FOR CASE #: 4:05-cr-40035-FDS-ALL**

Case title: USA v. Botchway

Date Filed: 08/10/2005

Assigned to: Judge F. Dennis
Saylor, IV

Defendant

Richard Botchway (1)

also known as

Ismaila Amoo (1)

also known as

Senica Allen (1)

also known as

Francisco Oni (1)

represented by **Keith S. Halpern**

Suite 3703

4 Longfellow Place

37th Floor

Boston, MA 02114

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Email: ksh@keithhalpern.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Designation: CJA Appointment

Pending Counts

18:1028(a)(5) - Unlawful
Possession of Document Making
Implement
(1)

Disposition

Highest Offense Level
(Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level

(Terminated)

None

Complaints

None

Disposition

Plaintiff

USA

represented by **David H. Hennessy**
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LEAD ATTORNEY
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John M. Hodgens, Jr.
 US Attorneys Office
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 508-368-0100
 Fax: 508-756-7120
TERMINATED: 03/30/2006
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
08/10/2005	<u>1</u>	INDICTMENT as to Richard Botchway (1) count(s) 1. (Shattuck, Deborah) (Entered: 08/11/2005)
08/11/2005	<u>2</u>	Judge F. Dennis Saylor IV: Electronic ORDER entered. ORDER REFERRING CASE to Magistrate Judge Charles B. Swartwood Reason for referral: Pretrial as to Richard Botchway (Shattuck, Deborah) (Entered: 08/11/2005)
08/11/2005	<u>3</u>	Attorney update in case as to Richard Botchway. Attorney Keith S. Halpern for Richard Botchway added. (Quinn,

		Thomas) (Entered: 08/16/2005)
08/11/2005	●	Electronic Clerk's Notes for proceedings held before Judge Judith G. Dein :Initial Appearance as to Richard Botchway held on 8/11/2005; AUSA Hasib and Attorney Halpern for the dft.; USMJ Dein informs the dft. of his rights and charges; Dft. request counsel; USMJ Dein provisionally appoints Attorney Halpern until cja 23 form is submitted; Govt. moves for detention and continuance; USMJ Dein orders the dft. to temporary detention pending hearing on 8/16/05 @ 10:00am. (Court Reporter D.R..) (Quinn, Thomas) (Entered: 08/16/2005)
08/16/2005	●	Electronic Clerk's Notes for proceedings held before Judge Judith G. Dein :Arraignment as to Richard Botchway (1) Count 1 held on 8/16/2005, Detention Hearing as to Richard Botchway continued on 8/16/2005; AUSA Hodgins and Attorney Halpern for the dft.; Dft. submits cja 23 form and USMJ Dein appoints Atty Halpern; Dft. pleads not guilty and 1st status conference will be set by Swartwood session; Attorney Halpern moves to continue detention hearing until 8/30/05 @ 2:00pm. before USMJ Swartwood; USMJ Dein orders the dft. temporary detention pending hearing on 8/30/05 before USMJ Swartwood. Counsel shall contact Swartwood session and confirm detention hrg date. (Court Reporter D.R..) (Quinn, Thomas) (Entered: 08/16/2005)
08/19/2005	●2	NOTICE OF INITIAL STATUS CONFERENCE HEARING as to Richard Botchway Status Conference set for 9/27/2005 02:00 PM in Courtroom 1 before Magistrate Judge Charles B. Swartwood. (cc/cl) (Jones, Sherry) (Entered: 08/19/2005)
08/19/2005	●3	Judge Charles B. Swartwood : ORDER entered. SCHEDULING ORDER as to Richard Botchway Status Conference set for 9/27/2005 02:00 PM in Courtroom 1 before Magistrate Judge Charles B. Swartwood. (cc/cl) (Jones, Sherry) (Entered: 08/19/2005)
08/19/2005	●4	Judge Charles B. Swartwood : ORDER entered. ORDER ON EXCLUDABLE DELAY as to Richard Botchway Time excluded from 8/16/05 until 8/30/05. (cc/cl) (Jones, Sherry) (Entered: 08/19/2005)
08/30/2005	●	Electronic Clerk's Notes for proceedings held before Judge Charles B. Swartwood :Detention Hearing as to Richard Botchway held on 8/30/2005. Case called, Counsel (Hodgens,

		Halpern), PTS Cuascut & Defendant appear, Government calls Patrick Cummings, Cross, Defendant calls Sophia Adu, Defendant calls Sheila B. Wilson, Defendant calls Trooper Hartwell, Government objects, The Court rules that Trooper Hartwell may not testify, Closing arguments, Matter taken under advisement, Order to issue, Defendant remanded to the custody of the US Marshals. (Digital Recorder 10:32 A.) (Roland, Lisa) (Entered: 09/02/2005)
08/30/2005	● <u>5</u>	EXHIBIT/WITNESS LIST re: Detention Hearing as to Richard Botchway. (Roland, Lisa) (Entered: 09/06/2005)
08/30/2005	● <u>6</u>	Government's Memorandum of Law regarding Adverse Witnesses at a Detention Hearing as to Richard Botchway, c/s. (Roland, Lisa) (Entered: 09/07/2005)
08/31/2005	● <u>7</u>	Judge Charles B. Swartwood : MEMORANDUM AND DECISION ON THE GOVERNMENT'S MOTION FOR DETENTION as to Richard Botchway, cc/cl. (Roland, Lisa) Additional attachment(s) added on 9/8/2005 (Jones, Sherry). (Entered: 09/07/2005)
09/07/2005	● <u>8</u>	Letter regarding Discovery as to Richard Botchway. (Jones, Sherry) (Entered: 09/07/2005)
09/20/2005	● <u>9</u>	Discovery Letter as to Richard Botchway. (Jones, Sherry) (Entered: 09/20/2005)
09/26/2005	● <u>10</u>	MOTION for Order <i>Compelling Discovery from State Police and Incorporated Memorandum of Law</i> as to Richard Botchway. (Halpern, Keith) (Entered: 09/26/2005)
09/26/2005	● <u>11</u>	Letter (non-motion) regarding Discovery Requests as to Richard Botchway (Halpern, Keith) (Entered: 09/26/2005)
09/27/2005	●	ElectronicClerk's Notes for proceedings held before Judge Charles B. Swartwood :Status Conference as to Richard Botchway held on 9/27/2005. Case called, Counsel (Hodgens, Halpern--by telephone) appear, Counsel request additional time, Oral Motion to exclude time, Case continued, Status Report and Order on Excludable Time to issue. (Digital Recording 2:11 P.) (Roland, Lisa) (Entered: 09/30/2005)
09/27/2005	●	Oral MOTION for Excludable Delay as to Richard Botchway by USA. (Roland, Lisa) (Entered: 10/04/2005)
09/28/2005	● <u>12</u>	Judge Charles B. Swartwood : STATUS REPORT as to

		Richard Botchway; Status Conference set for 10/17/2005 03:30 PM in Courtroom 1 before Magistrate Judge Charles B. Swartwood, cc/cl. (Roland, Lisa) (Entered: 10/04/2005)
09/28/2005	● <u>13</u>	Judge Charles B. Swartwood : Order of Excludable Time entered as to Richard Botchway (1). Time excluded from August 30, 2005 through October 17, 2005, cc/cl. (Roland, Lisa) (Entered: 10/04/2005)
10/11/2005	● <u>14</u>	Letter (non-motion) regarding discovery as to Richard Botchway. (Jones, Sherry) (Entered: 10/11/2005)
10/17/2005	●	ElectronicClerk's Notes for proceedings held before Judge Charles B. Swartwood :Status Conference as to Richard Botchway held on 10/17/2005. Case called, Counsel (Hodgens, Halpern-by telephone) appear, Counsel requests additional time, Oral motion to exclude time, Case continued, Status Report and Order on Excludable Time to issue. (Digital Recording 3:43 P.) (Roland, Lisa) (Entered: 10/17/2005)
10/17/2005	●	Oral MOTION for Excludable Delay as to Richard Botchway by USA. (Roland, Lisa) (Entered: 10/17/2005)
10/17/2005	● <u>15</u>	Judge Charles B. Swartwood : STATUS REPORT as to Richard Botchway; Status Conference set for 1/4/2006 02:30 PM in Courtroom 1 before Magistrate Judge Charles B. Swartwood, cc/cl. (Roland, Lisa) (Entered: 10/18/2005)
10/17/2005	● <u>16</u>	Judge Charles B. Swartwood : Order of Excludable Time entered as to Richard Botchway (1). Time excluded from October 17 through January 4, 2006, cc/cl. (Roland, Lisa) (Entered: 10/18/2005)
12/02/2005	● <u>17</u>	MOTION for Discovery as to Richard Botchway. (Halpern, Keith) (Entered: 12/02/2005)
12/05/2005	● <u>18</u>	AFFIDAVIT of Keith Halpern in support of: by Richard Botchway re <u>17</u> MOTION for Discovery, c/s. (Attachments: # <u>1</u> Exhibit)(Jones, Sherry) (Entered: 12/05/2005)
12/21/2005	● <u>19</u>	RESPONSE to Motion by USA as to Richard Botchway re <u>10</u> MOTION for Order <i>Compelling Discovery from State Police and Incorporated Memorandum of Law</i> (Hodgens, John) (Entered: 12/21/2005)
01/05/2006	●	ElectronicClerk's Notes for proceedings held before Judge Charles B. Swartwood :Motion Hearing as to Richard

		Botchway held on 1/5/2006 re <u>17</u> MOTION for Discovery filed by Richard Botchway. Case called, Counsel (Hodgens, Halpern-by telephone) appear, Counsel argue motion, Matter taken under advisement, Order to issue. (Digital Recording 4:18.) (Roland, Lisa) (Entered: 01/06/2006)
01/05/2006	●	ElectronicClerk's Notes for proceedings held before Judge Charles B. Swartwood :Status Conference as to Richard Botchway held on 1/5/2006. Case called, Counsel (Hodgens, Halpern-by telephone) appear, Counsel request additional time, Oral motion to exclude time, Case continued to 2/7/2006 @ 2:00 pm, Status Report and Order on Excludable Time to issue. (Digital Recording 4:18 P.) (Roland, Lisa) (Entered: 01/06/2006)
01/05/2006	●	Oral MOTION for Excludable Delay as to Richard Botchwayby USA. (Roland, Lisa) (Entered: 01/06/2006)
01/18/2006	● <u>20</u>	Judge Charles B. Swartwood : ORDER entered denying <u>17</u> Motion for Discovery as to Richard Botchway (1), cc/cl. (Roland, Lisa) (Entered: 01/19/2006)
01/20/2006	● <u>21</u>	Judge Charles B. Swartwood : STATUS REPORT as to Richard Botchway; Status Conference set for 2/7/2006 02:00 PM in Courtroom 1 before Magistrate Judge Charles B. Swartwood, cc/cl. (Roland, Lisa) (Entered: 01/28/2006)
01/20/2006	● <u>22</u>	Judge Charles B. Swartwood : ORDER of Excludable Time as to Richard Botchway (1). Time excluded from January 4, 2006 through February 7, 2006, cc/cl. (Roland, Lisa) (Entered: 01/28/2006)
02/07/2006	●	NOTICE OF RESCHEDULING as to Richard Botchway; Status Conference re-set for 2/16/2006 02:00 PM in Courtroom 1 before the New Magistrate Judge. (Roland, Lisa) (Entered: 02/07/2006)
02/16/2006	●	ElectronicClerk's Notes for proceedings held before Judge Timothy S. Hillman :Status Conference as to Richard Botchway held on 2/16/2006. Case called, Counsel (Hennessy, Halpern-by telephone) appear, Counsel request additional time, Oral motion to exclude time, Case continued, Status Report and Order on Excludable Time to issue. (Digital Recording 2:16 p.) (Roland, Lisa) (Entered: 02/17/2006)
02/16/2006	●	Oral MOTION for Excludable Delay as to Richard

		Botchwayby USA. (Roland, Lisa) (Entered: 02/17/2006)
02/21/2006	● <u>23</u>	Case as to Richard Botchway assigned to Judge Timothy S. Hillman. Judge Charles B. Swartwood no longer assigned to the case. (Hassett, Kathy) Additional attachment(s) added on 3/3/2006 (Jones, Sherry). (Entered: 02/21/2006)
02/22/2006	● <u>24</u>	Judge Timothy S. Hillman : FINAL STATUS REPORT as to Richard Botchway, cc/cl. (Roland, Lisa) (Entered: 02/23/2006)
02/22/2006	● <u>25</u>	Judge Timothy S. Hillman : ORDER of Excludable Time as to Richard Botchway (1). Time is excluded from February 7, 2006 through March 31, 2006, cc/cl. (Roland, Lisa) (Entered: 02/23/2006)
02/23/2006	●	Case as to Richard Botchway no longer referred to Magistrate Judge Timothy S. Hillman. (Roland, Lisa) (Entered: 02/23/2006)
03/07/2006	●	Judge F. Dennis Saylor IV: Electronic ORDER entered finding as moot <u>10</u> Motion for Order as to Richard Botchway (1). (Castles, Martin) (Entered: 03/07/2006)
03/16/2006	● <u>26</u>	SEALED MOTION as to Richard Botchwayby USA. (Roland, Lisa) (Entered: 03/16/2006)
03/16/2006	● <u>27</u>	MOTION to Suppress evidence seized in search of automobile and resulting statements and for an evidentiary hearing as to Richard Botchway, c/s. (Jones, Sherry) (Entered: 03/16/2006)
03/16/2006	● <u>28</u>	MEMORANDUM in Support by Richard Botchway re <u>27</u> MOTION to supress and for Hearing, c/s. (Attachments: # <u>1</u> Exhibit)(Jones, Sherry) (Entered: 03/16/2006)
03/29/2006	● <u>29</u>	MOTION for Extension of Time to April 10, 2006 to File Respond to the Motion to Suppress as to Richard Botchwayby USA. (Hennessy, David) (Entered: 03/29/2006)
03/30/2006	●	Judge F. Dennis Saylor IV: Electronic ORDER entered granting <u>29</u> Motion for Extension of Time as to Richard Botchway (1). Response due by 4/10/2006. (Castles, Martin) (Entered: 03/30/2006)
03/30/2006	●	Attorney update in case as to Richard Botchway. Attorney David H. Hennessy for USA added. Attorney John M. Hodgens, Jr terminated. (Castles, Martin) (Entered: 03/30/2006)

03/30/2006	●	Reset filing deadlines re: Motion in case as to Richard Botchway <u>27</u> MOTION to suppress. Response due by 4/10/2006. (Castles, Martin) (Entered: 03/30/2006)
04/10/2006	● <u>30</u>	RESPONSE to Motion by USA as to Richard Botchway re <u>27</u> MOTION for Hearing <i>to Suppress</i> (Attachments: # <u>1</u> Attachment)(Hennessy, David) (Entered: 04/10/2006)
04/14/2006	● <u>31</u>	Judge F. Dennis Saylor IV: ORDER entered granting <u>26</u> Sealed Motion as to Richard Botchway (1) (Castles, Martin) (Entered: 04/14/2006)
04/28/2006	● <u>32</u>	NOTICE re automatic disclosure pursuant to Local Rule 116.1 as to Richard Botchway <i>Additional Automatic Discovery</i> (Hennessy, David) (Entered: 04/28/2006)
05/03/2006	●	Judge F. Dennis Saylor IV: Electronic ORDER entered granting <u>27</u> Motion for Hearing as to Richard Botchway (1). Hearing date on motion to suppress to be set by the Court. (Castles, Martin) (Entered: 05/03/2006)
05/04/2006	●	NOTICE OF HEARING: Set hearing re: motion in case as to Richard Botchway <u>27</u> MOTION to suppress. Motion Hearing set for Wednesday 5/17/2006 at 2:00PM in Courtroom 2 before Judge F. Dennis Saylor IV. (Castles, Martin) (Entered: 05/04/2006)
05/17/2006	●	ElectronicClerk's Notes for proceedings held before Judge F. Dennis Saylor IV:Motion Hearing as to Richard Botchway held on 5/17/2006 re: <u>27</u> MOTION to suppress filed by Richard Botchway, Case called, Counsel and dft appear for motion hearing, Court hears testimony of witnesses, Court hears arguments of counsel, Court takes motion under advisement. (Court Reporter M. Kusa-Ryll.) (Castles, Martin) (Entered: 05/17/2006)
05/17/2006	● <u>33</u>	EXHIBIT LIST by Richard Botchway (Hassett, Kathy) (Entered: 05/18/2006)
05/18/2006	● <u>34</u>	WITNESS LIST by Richard Botchway (Hassett, Kathy) (Entered: 05/18/2006)
05/24/2006	● <u>35</u>	Opposition by USA as to Richard Botchway re <u>27</u> MOTION for Hearing <i>opposing Motion to Suppress</i> (Hennessy, David) (Entered: 05/24/2006)
05/24/2006	● <u>36</u>	Second MEMORANDUM in Support by Richard Botchway re

		27 MOTION for Hearing <i>re Suppression</i> (Halpern, Keith) (Entered: 05/24/2006)
05/24/2006	● <u>37</u>	Second MEMORANDUM in Support by Richard Botchway re 27 MOTION for Hearing <i>re Suppression</i> (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit)(Halpern, Keith) (Entered: 05/24/2006)
06/08/2006	● <u>38</u>	Judge F. Dennis Saylor IV: MEMORANDUM AND ORDER entered granting 27 Motion to Suppress as to Richard Botchway (1). (Castles, Martin) (Entered: 06/08/2006)
07/06/2006	● <u>39</u>	NOTICE OF APPEAL by USA as to Richard Botchway re 38 Order on Motion to Suppress. Filing fee \$ 455. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 7/26/2006. (Hennessy, David) (Entered: 07/06/2006)
07/06/2006	● <u>40</u>	Government's Certification pursuant to 18:3731 as to Richard Botchway (Hennessy, David) (Entered: 07/06/2006)

I hereby certify on 7/7/06 that the foregoing document is true and correct copy of the

☒ electronic docket in the captioned case

☐ electronically filed original filed on _____

☐ original filed in my office on _____

Sarah A. Thornton
 Clerk, U.S. District Court
 District of Massachusetts

By: Sherry Jones
 Deputy Clerk